

Substitute for form 1449/PTO				<b>Complete if Known</b>	
				Application Number	07/827,906-Conf. #3375
				Filing Date	January 30, 1992
				First Named Inventor	Kenneth A. Barton
				Art Unit	1638
				Examiner Name	A. R. Kubelik
Sheet	1	of	14	Attorney Docket Number	28079/41333

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
A1*	US-4,356,270	10-26-1982	Itakura		
A2*	US-4,448,885	05-15-1984	Schnepf et al.		
A3*	US-4,771,131	09-13-1988	Herrnstadt et al.		
A4*	US-4,943,674	07-24-1990	Houck et al.		
A5*	US-5,082,767	01-21-1992	Hatfield et al.		
A6*	US-5,250,515	10-05-1993	Fuchs et al.		
A7*	US-5,254,799	10-19-1993	De Greve et al.		
A8*	US-5,270,200	12-14-1993	Sun et al.		
A9*	US-5,495,071	02-27-1996	Fischhoff et al.		
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A14*	US-5,625,136	04-29-1997	Koziel et al.		
A15*	US-5,689,052	11-18-1997	Brown et al.		
A16*	US-5,763,241	06-09-1998	Fischhoff et al.		
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		Country Code <sup>3</sup> -Number <sup>4</sup> -Kind Code <sup>5</sup> (if known)			
B1	AU-B-46881/89		06-21-1990	CIBA-GEIGY AG	
B2	EP-0063949		11-03-1982	The Board of Regents of the University of Washington	
B3	EP-0108580		05-16-1984	Standard Oil Company	
B4	EP-0126546		03-30-1984	Lubrizol Genetics, Inc.	✓

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		Country Code <sup>3</sup> -Number <sup>4</sup> -Kind Code <sup>5</sup> (if known)				
B5	EP-0140556		05-08-1985	Agrigentics Res. Ass.		
B6	EP-0159884		10-30-1985	Agrigentics Res. Ass.		
B7	EP-0431829		06-12-1991	Agracetus, Inc.		
B8	EP-0275957		07-27-1988	Hoescht AG		
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B10	EP-0359472		03-21-1990	Mycogen Plant Science, Inc.		
B11	EP-0612848		08-31-1994	Sandoz Erfindungen Verwaltungsgesellschaft M.B.H.		
B12	JP-63137684		06-09-1988	Sumitomo Chem. Co. Ltd.		
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B14	WO-8808880		11-17-1988	Ecogen, Inc.		
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B16	WO-9015139		12-13-1990	Plant Genetics Systems, N.V.		
B17	WO-9110725		07-25-1991	Biotechnica International, Inc.		✓
B18	WO-9307278		04-15-1993	CIBA-GEIGY AG		✓

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. \* CITE NO.: Those application(s) which are marked with an single asterisk (\*) next to the Cite No. are not supplied (under 37 CFR 1.98(a)(2)(iii)) because that application was filed after June 30, 2003 or is available in the IFW. <sup>1</sup>Applicant's unique citation designation number (optional). <sup>2</sup>See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup>Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup>For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup>Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>6</sup>Applicant is to place a check mark here if English language Translation is attached.

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C1		Adami et al., "Adenovirus mRNA Processing - In a Regulated Manner a Splice Site Choice Dominates Over Selection of a Poly A Site Located in an Intron," <i>RNA Processing Meeting</i> , pp. 26, May 11-15 (1988).				
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C4		Adang et al., "Expression of a <i>Bacillus Thuringiensis</i> Insecticidal Crystal Protein Gene in Tobacco Plants," <i>Mol. Strat. Crop Protec.</i> , 345-353 (1987).				
C5		Adang et al., "The Reconstruction and Expression of a <i>Bacillus Thuringiensis</i> CryIIA Gene in Protoplasts and Potato Plants," <i>Plant Mol. Biol.</i> , 21:1131-1145 (1993).				

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	C6	Aota et al., Codon Usage Tabulated from the GenBank Genetic Sequence Data," <i>Nucl. Acids Res.</i> , 16(Supp): r315-r402 (1988).	
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	C8	Audtho et al., "Production of Chymotrypsin-Resistant <i>Bacillus Thuringiensis</i> Cry2Aa1 δ-Endotoxin by Protein Engineering," <i>Appl. Environ. Microbiol.</i> , 65(10):4601-4605 (1999).	
	C9	Barker et al., "Nucleotide Sequence of the T-DNA Region from the <i>Agrobacterium tumefaciens</i> Octopine Ti Plasmid pTi15955," <i>Plant Mol. Biol.</i> , 2:335-350 (1983).	
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	C17	Borlaug, "Contributions of Conventional Plant Breeding to Food Production," <i>Science</i> , 219:689-693 (1983).	
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	C19	Bozouklian et al., "Nucleotide Sequence of the Azospirillum Brasilense Sp 7 Glutamine Synthetase Structural Gene," <i>Biochemie</i> , 68:1181-1187 (1986).	
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	C26	Caplan et al., "Introduction of Genetic Material into Plant Cells," <i>Science</i> , 222:815-821 (1983).	
	C27	Chilton et al., "Tailoring the Agrobacterium Ti Plasmid as a Vector for Plant Genetic Engineering," <i>Stadler Symposium</i> , 13:39-51 (1981).	
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	C30	Conway et al., "Identification of Bases and Phosphates of SV40 Late Pre-mRNAs that are Required for 3' End Formation <i>In Vitro</i> ," <i>RNA Processing Meeting</i> , pp.40, May 11-15 (1988).	
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	C33	Dandekar et al., "Low Levels of Expression of Wild Type <i>Bacillus Thuringiensis</i> var. <i>Kurstaki</i> <i>CryIA</i> (c) Sequences in Transgenic Walnut Somatic Embryos," <i>Plant Science</i> , 96:151-162 (1994).	
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	C43	Ernst, "Codon Usage and Gene Expression," <i>TiBiotechnol.</i> , 6:196-199 (1988).	
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	C48	Fujimura et al., "Regeneration of Rice Plants from Protoplasts," <i>Plant Tissue Culture Lett.</i> , 2(2):74-75 (1985).	
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Substitute for form 1449/PTO				<b><i>Complete if Known</i></b>	
				Application Number	07/827,906-Conf. #3375
				Filing Date	January 30, 1992
				First Named Inventor	Kenneth A. Barton
				Art Unit	1638
				Examiner Name	A. R. Kubelik
Sheet	13	of	14	Attorney Docket Number	28079/41333

<b>NON PATENT LITERATURE DOCUMENTS</b>				
Examiner Initials	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.		T <sup>2</sup>
	C199	Wong et al., "Cloning and Nucleotide Sequence of the Gene Coding for a 135-KDAL Protein of <i>Bacillus Thuringiensis Aizawai</i> ," <i>XXI Ann. Meeting Soc. Inv. Pathol.</i> , USCD, pp.27(13), Aug. 14-18 (1988).		
	C200	Wong et al., "Differential Accumulation of Proteinase Inhibitor I in Normal and Crown Gall Tissues of Tobacco, Tomato, and Potato," <i>Plant Physiol.</i> , 57:214-217 (1976).		
	C201	Wong et al., "Transcriptional and Translational Start Sites for the <i>Bacillus Thuringiensis</i> Crystal Protein Gene," <i>J. Bio. Chem.</i> , 258:1960-1967 (1983).		
	C202	Yamada et al., "Plant Regeneration from Protoplast-Derived Callus of Rice ( <i>Oryza Sativa L.</i> )," <i>Plant Cell Reports</i> , 5:85-88 (1986).		
	C203	Zambryski et al., "Ti Plasmid Vector for the Introduction of DNA into Plant Cells Without Alteration of Their Normal Regeneration Capacity," <i>EMBO J.</i> , 2(2):2143-2150 (1983).		
	C204	Zambryski et al., "Tumor Induction by <i>Agrobacterium tumefaciens</i> : Analysis of the Boundaries of T-DNA," <i>J. Mol. Appl. Genet.</i> , 1:361-370 (1982).		
	C205	Zeigler, "Lehrbuch der Botanik," <i>Strasburger</i> , 32nd Ed., pp.286 (1983).		
	C206	Syngenta Seeds Inc. v. Monsanto Co., 404 F. Supp.2d 594 (D. Del. 2005)		
	C207	Pazuniak, George; Letter to Gass, D., counsel for Monsanto dated August 14, 2008.		
	C208	Appendix A of Pazuniak's letter to Gass, Opposition decision, EP Patent No. 0 385 962, dated July 25, 2008.		
	C209	Annex I to Appendix A of Pazuniak's letter to Gass, Auxiliary Request I, EP 0 413 019, dated November 16, 2005.		
	C210	Annex II to Appendix A of Pazuniak's letter to Gass, Auxiliary Request I, EP 0 385 962, dated November 7, 2005.		
	C211	Annex III to Appendix A of Pazuniak's letter to Gass, Figures 2A, 3A, 4A, and 12A of European patent EP 0 413 019.		
	C212	Annex IV to Appendix A of Pazuniak's letter to Gass, Auxiliary Request II, EP 0 385 962, dated November 7, 2005.		
	C213	Appendix B of Pazuniak's letter to Gass, Minutes of the oral proceedings before the Opposition Division, EP-B-385962, dated November 16, 2005.		
	C214	Request for Opposition against European Patent EP-B-0 385 962 granted in the name of Monsanto Technology LLC by Aventis CropSciences N.V., July 18, 2001.		

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	C215	Request for Opposition against European Patent EP-B-0 385 962 by Dow Agrosciences LLC, dated April 18, 2002.	
	C216	Request for Opposition against European Patent EP-B-0 385 962 by Syngenta Ltd, dated April 11, 2002.	
	C217	Walker, Declaration of Keith A. Walker 37 C.F.R. § 1.132 filed on June 10, 1991 before the United States Patent and Trademark Office.	

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\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup>Applicant's unique citation designation number (optional). <sup>2</sup>Applicant is to place a check mark here if English language Translation is attached.